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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,871	05/31/2001	John Stephen Cart	15564-1	8977

7590

02/28/2002

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EXAMINER

TUCKER, PHILIP C

ART UNIT

PAPER NUMBER

1712

7

DATE MAILED: 02/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

870871

Applicant(s)

CART

Examiner

P. TUCKER

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1 - 17 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1 - 17 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 is a method claim which depends from a composition claim, and thus the scope of the claim is not clear.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claim 15 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sheeler (2894906).

See column 5, lines 55-66.

5. Claim 15 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fisher (2743233).

See Table, samples 23-26.

6. Claim 15 rejected under 35 U.S.C. 102(b) as being anticipated by Kirk-Othmer, Encyclopedia of Chemical Technology, Vol. 7, 2nd Edition, (1965), pages 297-299.

Kirk-Othmer teaches drilling fluids which comprise fluid loss materials such as ground tires (crumb rubber) in Table 2.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheeler (2894906).

Sheeler teaches drilling fluids which may be water based or oil based , and comprise shredded rubber tires (crumb rubber) (see column 5, line 55 - column 6, line 4). Sheeler differs from the present invention in that the specific size of the crumb rubber is not disclosed, and the use of another fluid loss additive is not taught. The variation of the size of the crumb rubber particles in order to obtain improved fluid loss properties of the drilling fluid, would be an obvious variation to one of ordinary skill in the art (In re Aller 105 USPQ 233). The use of various fluid loss additives in drilling fluids, such as lignosulfonates, asphaltic materials, lignites, starches, celluloses and polyacrylates, is universally well known in the art, and would be obvious to one of ordinary skill in the art.

9. Claims 1-5, 11-13, 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher (2743233).

Fisher teaches oil-based drilling fluids which comprise crumb rubber (Table, samples 23-26). Fisher differs from the present invention in that the specific size of the crumb rubber is not disclosed, and the use of another fluid loss additive is not taught. The variation of the size of the crumb rubber particles in order to obtain improved fluid loss properties of the drilling fluid, would be an obvious variation to one of ordinary skill in the art (In re Aller 105 USPQ 233). The use of

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various fluid loss additives in drilling fluids, such as lignosulfonates and asphaltic materials, is universally well known in the art, and would be obvious to one of ordinary skill in the art.

10. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirk-Othmer, Encyclopedia of Chemical Technology, Vol. 7, 2nd Edition, (1965), pages 297-299.

Kirk-Othmer teaches drilling fluids which may be water based or oil based , and comprise ground rubber tires (crumb rubber) (see first column of Table 2). Kirk-Othmer differs from the present invention in that the specific size of the crumb rubber is not disclosed, and the use of another fluid loss additive is not taught. The variation of the size of the crumb rubber particles in order to obtain improved fluid loss properties of the drilling fluid, would be an obvious variation to one of ordinary skill in the art (In re Aller 105 USPQ 233). The use of various fluid loss additives such as lignosulfonates, asphaltic materials, lignites, starches, celluloses and polyacrylates is universally well known in the art, and would be obvious to one of ordinary skill in the art.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tucker whose telephone number is (703) 308-0529. The examiner's normal working hours are 7:30am-4:00pm, Monday-Friday. If necessary SPE Robert Dawson may be contacted at 703-308-2340. For inquiries of a general nature call the receptionist at 703-308-0651. The group FAX no. is 703-872-9310. The **after final** fax no. Is 703-872-9311.

PCT-2387  
February 21, 2002

  
**PHILIP C. TUCKER**  
**ART UNIT 1712.**